IN THE UNITED STATES DISTRICT COURT
DISTRICT OF SOUTH CAROLINA
CHARLESTON DIVISION

LEVI SHINE, Plaintiff, vs. BBC CHARTERING, MS FRATERNITY SCHIFFAHRTSGESELLSCHAFT GMBH & CO. KG, HERMANN BUSS GMBH & CLE. KG, and M/V BBC CALIFORNIA, HER ENGINES, APPURTENANCES, CARGO, APPAREL, ELECTRONICS, ETC., In Rem, Defendants.	)	IN ADMIRALTY C/A NO. 2:16-cv-3793-RMG **COMPLAINT** (Maritime Tort) **NON-JURY TRIAL DEMANDED**

TO: THE ABOVE NAMED DEFENDANTS:

NOW COMES the Plaintiff, by and through his undersigned attorneys, complaining of the above-named Defendants, and does hereby allege and show unto this Honorable Court as follows:

1. That the Plaintiff, Levi Shine, is a citizen and resident of the County of Charleston, State of South Carolina.

2. That at all times pertinent herein, the Plaintiff was a longshoreman as defined by the Longshore and Harbor Workers' Compensation Act, 33 U.S.C. §901 *et seq.* That this case is cognizable under §905(b) of the aforementioned Act and the General Maritime Law of the United States of America and applicable laws of the State of South Carolina. That this is a case of maritime personal injury and is an admiralty and maritime claim with the meaning of Rule 9(h) of the Federal Rules of Civil Procedure.

3. That this is a claim within the original admiralty jurisdiction of the United States District Court, and the Plaintiff invokes the jurisdiction of this Honorable Court pursuant to 28 U.S.C. §1333(1).

4. That, upon information and belief, the Defendant, BBC Chartering, is a foreign corporation organized and existing under the laws of Germany which regularly transacts business in the County of Charleston, State of South Carolina and maintains offices located in the County of Charleston, State of South Carolina. That, upon information and belief, at all times pertinent hereto, the Defendant was and is the long-term time charterer/operator of the M/V BBC CALIFORNIA.

5. That, upon information and belief, at all times pertinent herein the Defendant, MS Fraternity Schiffahrtsgesellschaft GmbH & Co. KG, is a foreign (German) corporation doing business in Charleston, South Carolina. That at all times material herein this Defendant was the owner of the M/V BBC CALIFORNIA.

6. That, upon information and belief, at all times pertinent herein the Defendant, Hermann Buss GmbH & Cle. KG is a foreign corporation from Germany which regularly transacts business in the County of Charleston, State of South Carolina. That, upon information and belief, at all times pertinent hereto, the Defendant, Hermann Buss GmbH & Cle. KG, provided ship management services to the M/V MOL ENCORE as set forth more fully below.

7. That, upon information and belief, at all times pertinent herein the Defendant, M/V BBC CALIFORNIA, her Engines, Appurtenances, Cargo, Apparel, Electronics, etc., is a foreign-flagged merchant vessel traversing international and United States waters which, upon information and belief, is currently located in or will be located within this District during the

pendency of this action. That this action is brought against the Defendant vessel in rem pursuant to Rule C of the Supplemental Rules for Certain Admiralty and Maritime Claims.

8. That this Honorable Court has jurisdiction of the parties and subject matter set forth herein.

9. That on or about the 21st day of July, 2015, the Plaintiff was working as a longshoreman for the stevedoring company SSA Cooper, LLC at the Columbus Street Terminal of the South Carolina State Ports Authority located in Charleston County, South Carolina. That as part and parcel of his duties, the Plaintiff was required to work aboard the Defendant vessel. That in order for the Plaintiff to embark the vessel, he was required to use the gangway which remained under the active control of the vessel's crew at all times mentioned herein. That as the Plaintiff attempted to ascend the gangway - the only means of ingress or egress provided to him - and grabbed the stanchion on the lower portion of the gangway to pull himself up to the gangway's level, the stanchion gave loose, injuring his right shoulder. That the injuries which the Plaintiff received and herein complained of were proximately caused by and resulted solely through the negligence of the Defendant, its master, agents, servants, crew, and employees and/or because of the unseaworthiness of the aforementioned vessel.

10. That the Defendants, at the time and place above mentioned, were careless, reckless, willful, wanton, negligent, and/or grossly negligent in one or more of the following particulars:

a. In failing to have the vessel, it crew, and equipment in such condition that an experienced stevedore would have been able by the exercise of reasonable care to carry on its cargo operations with reasonable safety to persons and/or property;

b. In failing to warn the stevedore of any hazards on the vessel or with respect to its equipment that are known to the vessel or should have been known by the exercise of reasonable care that would not be known by the stevedore and would not be obvious to or anticipated by him if reasonably competent;

c. In failing to protect longshoreman such as the Plaintiff after cargo operations had commenced when the Defendants were or should have been aware that the vessel and/or its gear posed a danger to the Plaintiff as a longshoreman aboard the vessel;

d. In failing to protect longshoreman such as the Plaintiff after cargo operations had commenced when the Defendants were or should have been aware that the stevedore was acting unreasonably in failing to protect the Plaintiff as a longshoreman aboard the vessel against danger;

e. In that the vessel's gangway was unsafe and unreasonably dangerous to use;

f. In that the Defendants failed to modify, repair, or maintain the stanchion on the vessel gangway when it knew or should have known that it was unsafe and unreasonably dangerous;

g. In that the Defendants failed to take the appropriate remedial action and repair or modify the vessel gangway when it knew or should have known that it was unsafe or unreasonably dangerous;

h. In that the Defendants failed to warn and/or instruct the Plaintiff and/or his employer about the hazardous condition presented by the stanchion on the vessel gangway, when it knew or should have known that the Plaintiff would be required to traverse this area in carrying out his normal course of business aboard the vessel;

i. In that the Defendants failed to provide the Plaintiff with a safe place to work when it was its duty to do so;

j. In failing to monitor and trim the ship's gangway to account for changes in the tide and the ship's draft;

k. In failing to provide a safe means of egress and ingress for the Plaintiff; and

l. In other respects to be proven upon trial of this case.

11. That as a direct and proximate result of the Plaintiff's fall caused by the Defendants, the Plaintiff has suffered serious bodily and personal injuries - all of which have and will in the future cause him to expend great sums for medical care; have and will in the future cause him permanent physical impairment; have and will in the future cause him loss of wages, earnings, profits, and wage earning capacity; have and will in the future cause him trauma, anxiety, annoyance, mental anguish, loss of enjoyment of life, inconvenience, permanent impairment, and travel expenses related to medical care – all to his general damage and detriment.

12. That as a direct and proximate result of the negligent actions and/or inactions of the Defendants, the Plaintiff is informed and believes that he is entitled to judgment against the Defendants in an appropriate amount of actual damages, for pre- and post-judgment interest. the costs of this action, and any other and further relief as this Court deems just and proper.

WHEREFORE the Plaintiff prays unto this Honorable Court for judgment against the Defendants in an appropriate amount of actual damages, for pre- and post-judgment interest, the costs of this action, and any other and further relief as this Court deems just and proper.

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